

Appl. No.: 10/773,828
Amdt. Dated: 2/ October 2006
Reply to Office Action mailed 07/26/06

Remarks/Arguments

Applicant submits this Amendment in response to the Office Action mailed 07/26/2006. In the Office Action the Examiner has rejected claims 1, 2, 5-9, 16, 19 and 20 under 35 USC 102(b) as being anticipated by Morris (U.S. Pat. No. 3,462,038), rejected claims 3, 4, 14, 15, 17 and 18 under 35 USC 103(a) as being unpatentable over Morris in view of Prime et al. (U.S. Pat. No. 4,953,730), and rejected claims 10-13 and 15 under 35 USC 103(a) as being unpatentable over Morris in view of Pradel (U.S. Pat. No. 5,092,488).

Before considering the specific grounds for rejection stated in the Office Action, and the manner in which the present response overcomes such grounds for rejection, it is believed to be expedient to briefly summarize applicants' invention.

Specifically, the invention comprises an external reusable metal frame having shaped end rings and a number of connecting members such as rods, the connecting rods positioned and held in place by locating means such as holes in the end rings. The rings with connecting rods form a frame in which planar wood side panels (staves) and end panels are mounted, the side panels pressing against each other and the connecting members in a liquid tight manner. The wooden end panels are butted against the ends of the wooden side panels. The connecting members may be circular or multi-sided.

At assembly with the end rings, the heads are pressed against respective ends of the wooden side staves, also in a liquid tight manner, such that the final assembly of all components results in a liquid tight container. The heads are not fitted into grooves (croze). All wood components are planar and symmetrical, thus either all or individual wood components can be removed, reversed, and reinstalled for further use. Additionally, each individual wood component can be replaced as may be desired.

The claimed combination thus provides a unique and much better performing wine barrel assembly since it provides a wooden wine barrel wherein all the staves can be reversed in order to make better use of the expensive stave wood required.

Rejection of claims 1, 2, 5-9, 16, 19 and 20 as being anticipated by Morris

The Morris patent does not teach or suggest applicant's claimed invention. In contrast, Morris discloses a flat sided container relying heavily on bonding the staves and heads together to achieve a liquid tight container. The construction technique is centuries old, that is, side staves having grooves (croze) at each end wherein the end heads fit with the side staves being held together by a number of outside hoops. In Morris, only the heads are reversible due to the curved corner side staves and the bonding technique.

The Examiner has cited numeral 36 of Morris as depicting rigid ends wherein in fact numerals 36, 38 and 40 are identical outside hoops used together with bonding to hold side staves together and to retain heads in the croze much in the same manner as in conventional wine barrel construction. The outside hoops could not be used to locate connecting side staves. Additionally, corner curved stave 42 is not used as a special connecting means. It is curved to facilitate multi-sided construction and has exactly the same purpose as the planar staves. It has the same length as the planar staves and has identical croze to receive the heads. If stave 42 is deemed to be a connecting means then all planar staves are also connecting means by the presence of the croze at each ends as in conventional construction, thereby eliminating the need for any connecting rods.

As to any rejection of the claims with respect to "anticipation" under 35 USC 102, the courts have held that "Anticipation requires the presence in a single prior art disclosure of all of a claimed invention arranged as in the claim." See Structural Rubber Products Co. v. Park Rubber Co. (Fed Cir 1984) 223 USPQ 124, and Radio Steel & Mfg. Co. v. MTD Products Inc. (Fed Cir 1984) 221 USPQ 757.

Independent claims 1 and 16 have been amended to recite variations of limitations relative to applicant's invention that are not even suggested, much less taught by the patent to Morris. Specifically, claim 1 recites wooden side panels fitted circumferentially into the inside area of said frame and a plurality of wooden end panels butted against the ends of wooden side panels, which are neither taught nor suggested by the disclosure of Morris. Claim 16 likewise recites limitations neither taught nor suggested by the disclosure of Morris.

As to any rejection under 35 U.S.C. 103, the mere fact that the prior art may be modified in a manner suggested by the Examiner does not make the modification obvious unless the prior

art suggested the desirability of the modification In re Gordon, 723 F.2d at 902, 221 USPQ at 1127.

Further, as to 35 U.S.C. 103 rejections, it is known that the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art and that he can satisfy this burden only by showing some objective teaching in the prior art or that such knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references In re Fine, 837 F.2d 1071, 1074, 5USPQ2d 1596, 1598 (Fed. Cir. 1988). It is submitted that there is no suggestion in either of Engler, Goldberg, Murasko, or the combination thereof, that they may somehow be modified to teach applicant's claim of invention.

Thus, inasmuch as there is no teaching or suggestion in Morris of applicant's invention as recited in amended independent claims 1 and 16, it is submitted that these claims are free of rejection as either anticipated (§102) by Morris or obvious (§103) in view of Morris, and claims 2, 5-9, 19 and 20 that are variously dependent from claim 1 or claim 16 are likewise submitted as free of rejection.

Rejection of claims 3, 4, 14, 15, 17 and 18 as unpatentable over Morris in view of Prime

The patent to Prime does not teach or suggest applicant's claimed invention. In contrast, Prime discloses a rectangular container having an annular metal frame with an outwardly flange to provide for clamping of the side staves to the frame. Randomly located individual clamping units are provided to secure the metal sides to the flange. The connecting means are short screws and nuts used in a manner to achieve clamping. A long screw could be used but this would have a negative effect on the clamping force since the flange could flex due to lack of direct pressure on the flange. Thus, the use of short screws is more beneficial to the construction of the barrel of Prime. It is seen that neither the present invention nor the barrel of Morris could beneficially incorporate the teachings of Prime in any variations in that neither have any metal side walls with flanges.

Independent claims 1, 10 and 16 have been amended to recite variations of limitations relative to applicant's invention in which there is no teaching or suggestion in either of Morris or Prime, or the combination thereof, that the devices of either may somehow be modified, or

combined, as suggested by the Examiner, to teach applicant's claim of invention as recited in these amended claims. There is certainly no indication in either Morris or Prime of the desirability of such a transformation or modification.

Accordingly, since Morris in view of Prime does not suggest the desirability of the modification as indicated by the Examiner, it is submitted that dependent claims 3 and 4 dependent from claim 1, claims 14 and 15 dependent from claim 10, and claims 17 and 18 dependent from claim 16, are also free of rejection as unpatentable over Morris in view of Prime et al.

Rejection of claims 10-13 and 15 as unpatentable over Morris in view of Pradel

The patent to Pradel does not teach or suggest applicant's claimed invention. In contrast, Pradel discloses a metal cylindrical body with flanges at both ends with various clamping means, which clamping arrangement could not be incorporated into Morris to result in applicant's claimed invention. Even though the circular end covers (heads) are reversible this is not necessary for applicant's invention and the claims have been amended in accordance therewith.

In the past many unsuccessful attempts have been made to devise a wooden wine barrel wherein all the staves can be reversed in order to make better use of the expensive stave wood required. In the inventions of Prime and Pradel only the end plates can be reversed and then only with marginal success in that there is a major drawback since the metal sides greatly reduces the the wooden area in contact with the wine thereby reducing the tanin bleached into the wine and the oxygen received by the wine during aging. Morris could modify his barrel to enable reversal of his end panels without the adverse affect of Prime or Pradel. However, in doing so he still could not reverse the side staves for at least the following three reasons:

1. all side staves are crozed on both ends to receive the end plates;
2. curved corner staves cannot be turned inside out; and
3. the longitudinal sides of the planar staves are machined in such a way to allow room for the adhesive and this prohibits reversal of the planar staves.

The instant invention addresses all of these problems and solves them in unique ways, namely with the external metal frame with its end rings, locating holes and rods. The frame allows all side staves to be planar without any croze (grove) with therefore no need for metal sides. Further, no curved corner staves are used therefore all side staves are reversible. This

combination of characteristics result in a wine barrel neither taught nor suggested by the references, either individually or in some manner as suggested by the Examiner.

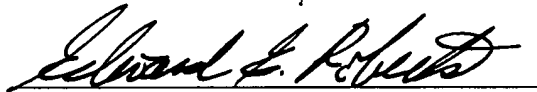
Independent claim 10 has been amended to recite variations of limitations relative to applicant's invention in which there is no teaching or suggestion in either of Morris or Pradel, or the combination thereof, that the devices of either may somehow be modified, or combined, as suggested by the Examiner, to teach applicant's claim of invention as recited in these amended claims. There is certainly no indication in either Morris or Pradel of the desirability of such a transformation or modification.

Accordingly, it is submitted that claim 10 and claims 10-13 and 15 dependent therefrom are free of rejection as unpatentable over Morris in view of Pradel.

In view of the above, applicant submits that the claims 1-20, as amended, are now in proper form for allowance and requests that the application be allowed to proceed to issue.

Respectively submitted,


Dated: 21 October 2006


Edward E. Roberts
Attorney for Applicant

P.O. Box 3206
Dana Point, CA 92629
T: (949) 365-5717
F: (949) 365-5718

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Edward E. Roberts
Reg. No. 26,024